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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/409,594
Filing Date: September 30, 1999
Appellant(s): BASSETT ET AL.

_____
James O. Skarsten
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/29/2008 appealing from the Office action

mailed 3/24/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct

(4) Status of Amendments After Final

The statement of the status of claims contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Freeman et al. (U.S. Patent No. 5,861,881) dated January 01, 1999.

Allport (U.S. Patent No. 6,097,441) dated August 01, 2000 (*in response to the traversal of the Official Notice)*.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9, 11-13, 22-30, 32-34 and 43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In response to the arguments presented in the Appeal Brief filed 12/20/2007, Applicant states that claim 1 recites a two step process. The inconsistency of a three

step process and two step process was stated by the examiner in regards to the 112 1st

Paragraph made by the examiner in the previous Office Actions.

As stated by the examiner, claim 1 recites a <u>three step process</u>, where

video/audio streams are received (**the first step**), a subset of video/audio streams are

selected (**the second step**) and responsive to user input, selecting a plurality of video

streams from the video stream subset for the event, and one or more audio streams

from the audio stream subset for the event, wherein the selecting step omits ones of the

video stream subset while retaining the selected plurality of video streams, and omits

ones of the audio stream subset while retaining other ones of the audio stream subset

(**the third step**).

As clearly taught by Applicant's specification on Pages 21-22 and Figure 8, a

user selects programming to be retrieved from a distributed database at step 800

(**therefore causing a set of video streams to be received which has been identified

by the examiner as the first step**). Applicant's specification further teaches at steps

806,808, 814 and 816 of Figure 8 that a subset of the video/audio streams are selected

and the selections are stored in a user profile (**therefore teaching selecting subsets

of video/audio streams which has been identified by the examiner as the second

step**). However, after this second step has been taught by the specification, the third

step is simply the synchronization and display of the video/audio streams on Page 23

and steps 818 and 820 of the specification. No additional step is taught for further

selecting video/audio streams from the selected <u>subset</u>.

Applicant states in the Appeal Brief on Page 15, 3rd Paragraph that this additional step is taught on Page 18, Lines 10-23, where the specification teaches that it is possible to make the overlays (**also stated at the bottom of Page 17 to be only <u>video overlay streams</u>**) selectable and as an example, selecting a player's "name overlay" might for example bring up an overlay with that player's biography.

The examiner disagrees that this passages teaches the third step for two reasons. The first reason results from the claims specifically teaching that one or more audio streams are additionally selected from the subset of selected audio streams, however this additional teaching on Page 18 only teaches a video overlay stream being additionally selected. The examiner notes that the passage on Page 18 fails to teach that one or more audio streams are further selected from the selected subset of audio streams (**only a single additional video overlay stream**). The second reason results from the claim reciting that responsive to user input, selecting <u>a plurality of video streams</u> for concurrent display. The examiner notes that Page 18 of Applicant's specification only teaches that a single additional video overlay stream is being selected from the subset of selected video overlay streams (**the football game video stream and the "name overlay" video stream, where the user selects the name overlay video stream and a single additional biography video overlay stream is displayed**).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9, 11-21, and 43-44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 43-44 specify a computer program and the programming steps that define the computer program. The examiner notes that a computer program with no corresponding structure to execute the program has been deemed non-statutory subject matter (**see MPEP 2106**). The Examiner further notes that Page 26 of Applicant's specification also defines the computer-readable medium as a signal bearing medium and that signal claims have been deemed non-statutory subject matter (**see MPEP 2106**).

The examiner further notes that since method and system claims are both recited, a determination cannot be made whether the method claims correspond to the system or computer program product, therefore the method claims are also rejected as corresponding to the non-statutory computer program product claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 11, 13-30, 32 and 34-44 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Freeman et al. (U.S. Patent No. 5,861,881).

Referring to claim 1, Freeman discloses a method in a data processing system for user controlled selection of multimedia data stream for an event (**see Figure 1 and Column 4, Lines 7-14 for providing a data processing system with user controlled selection for interacting with a program and Column 5, Lines 55-62 for providing user inputs to the system for personalized the programming received by the data processing system**).

Freeman also discloses receiving a set of video streams and a set of audio streams (**see Column 4, Lines 32 through Column 5, Line 5 for receiving a set of audio and video streams from various sources, therefore, audio and video streams received from sources 38 and 42 comprise a complete set**).

Freeman also discloses selecting a subset of the set of video streams and a subset of the set of audio streams (**see Column 5, Lines 38-45 for selecting a subset (*a specific input source*) in response to interactive commands**).

Freeman also discloses that responsive to user input to the data processing system (**see Column 5, Lines 55-56**), selecting a plurality of video streams from the video stream subset for the event (**see Column 5, Lines 56-62, Column 12, Lines 31-49 and Column 13, Lines 46-61 for selecting a plurality of video overlay streams (*the video displayed on the screen and the pop-up overlays to be displayed while watching the television program, as defined by Applicant's specification on Page**

18) **from a subset**), and one or more audio streams from the audio stream subset for the event (**see Column 5, Lines 56-62, Column 12, Lines 31-49 and Column 14, Lines 8-67 for selecting a plurality of audio streams from a subset**), wherein the selecting step omits ones of the video stream subset while retaining the selected plurality of video streams (**see again Column 5, Lines 56-62, Column 12, Lines 31-49 and Column 13, Lines 46-61 for selecting a plurality of video overlay streams from a subset, which therefore omits video streams that have not been selected**), and omits one so the audio stream subset while retaining other ones of the audio stream subset (**see Column 5, Lines 56-62, Column 12, Lines 31-49 and Column 14, Lines 8-67 for selecting a plurality of audio streams from a subset, which therefore omits audio streams that have not been selected**).

Freeman also discloses presenting each of the retained plurality of video streams concurrently with one another (**see Column 13, Lines 46-59 for displaying the video signal with video overlay streams (*note above for a video stream such as a football game and a video overlay streams such as a pop-up graphics window both comprising a selected (plurality of) video streams as described by Page 18 of Applicant's specification*)**), and also concurrently with the retained other ones of the audio stream subset (**see Column 14, Lines 10-16 and Lines 58-67 for providing audio streams concurrently with the selected video streams**).

Referring to claim 2, Freeman discloses presenting the video stream on a display (**see Monitor 16 in Figure 1**).

Freeman also discloses altering a location in the display in which the video stream is presented (**see Column 15, Lines 64-67 and Column 16, Lines 1-29**).

Referring to claim 3, Freeman discloses selecting different selected ones of the set of video streams for presentation simultaneously with one another (**see Column 12, Lines 39-49 and Column 13, Lines 46-59 for selecting multiple/different selected ones of the set of video streams (video and graphics) for presentation**).

Referring to claim 4, see the rejection of claim 3. The examiner also notes that Column 13, Line 62 through Column 14, Line 7 for changing the video streams presented on the display based on the user's answers to the multitude of questions.

Referring to claim 5, Freeman discloses selecting different selected ones of the set of audio streams for presentation (**see Column 14, Lines 10-16 and 58-67**).

Referring to claim 6, see the rejection of claim 5. The examiner also notes Column 14, Lines 16-31 for outputting multiple audio streams based on the user's previous responses.

Referring to claim 7, Freeman discloses receiving a set of information streams including text (**see Column 19, Lines 20-24 and 30-32 for a specific example of displaying text to a user viewing and/or playing an interactive program**).

Freeman also discloses that responsive to the user input, selectively presenting selected ones of the sets of information streams on a display (**see Column 19, Lines 42-47 for accessing an interactive program and displaying additional web site text information according to the user's inputs**).

Referring to claim 8, Freeman discloses that the set of video streams and the set of audio streams include time stamps and synchronizing the selected ones of the video stream with the selected ones of the audio stream using the time stamps (**see Column 11, Line 19 through Column 12, Line 31**).

Referring to claim 9, Freeman discloses that the set of video streams and the set of audio streams include data packets located in the video and audio data streams periodically and synchronizing the selected ones of the video stream with the selected ones of the audio stream using the data packets (**see Column 11, Line 19 through Column 12, Line 31**).

Referring to claim 11, Freeman discloses a computer at Column 4, Lines 15-20 and element 6 in Figure 1.

Referring to claim 13, Freeman discloses a television at Column 7, Lines 38-43.

Referring to claim 14, Freeman discloses a method of tailoring a multimedia presentation of an event on a computerized multimedia system (**see Figure 1 and Column 4, Lines 7-14 and Column 5, Lines 55-62 for tailoring a multimedia presentation of an event based on user-specified inputs provided to a multimedia system**).

Freeman also discloses providing a set of video streams, a set of audio streams and a set of information streams for the event via a network coupled to the computerized multimedia system (**see Column 4, Line 58 through Column 5, Line 27 and Column 19, Lines 33-47 for video, audio and information streams being provided from different sources**).

Freeman also discloses receiving video, audio and information streams from the set of video, audio and information streams (**see again Column 4, Line 58 through Column 5, Line 27 and Column 19, Lines 33-47 for receiving the video, audio and information streams from the different sources**).

Freeman also discloses responsive to user input to the data processing system, selecting a plurality of the received video streams for the event, and also selecting one or more of the received audio streams for the event (**see Column 12, Lines 39-65, Column 13, Lines 46-58 and Column 16, Lines 39-55 for responsive to the user selecting a channel, being queried by a series of questions to determine a selection of further video overlay streams (graphics) and audio streams**).

Freeman also discloses responsive to user input, assigning each video stream of the selected plurality of video streams and the selected audio streams to respective

portion of video and audio output devices (**see Column 15, Line 64 through Column 20 and Column 14, Lines 58-67 for outputting video overlay streams and audio streams in response to user input (*answers from the interrogatory questions*) on selected portions/positions of the video and audio output devices**).

Freeman also discloses presenting each video stream of the selected plurality of video streams concurrently with one another for the event (**see again Column 13, Lines 46-59 for displaying the video signal with video overlay streams (*note above for a video stream such as a football game and a video overlay streams such as a pop-up graphics window both comprising a selected (plurality of) video streams as described by Page 18 of Applicant's specification*)**), and also concurrently with the selected audio streams (**see Column 14, Lines 10-16 and Lines 58-67 for providing audio streams concurrently with the selected video streams and further note the specific example application at Column 19, Lines 20-32**).

Referring to claims 15-16, Freeman discloses that the steps of selecting the plurality of video streams and audio streams for presentation from the set of video and audio streams, respectively, for the event is performed in the computerized multimedia system (**see Figure 1 and Column 4, Line 8 through Column 5, Line 62 for the computerized multimedia system (interactive computer 6) performing the selection and presentation functions**).

Referring to claim 17, Freeman discloses that the set of video and audio streams are provided from a first source (**see element 38 in Figure 1 and Column 2, Lines 39-60**).

Referring to claim 18, Freeman discloses providing a second video stream from a second source (**see Column 2, Lines 39-60 and element 42 in Figure 1**).

Referring to claim 19, Freeman discloses providing a second audio stream from a second source (**see Column 2, Lines 39-46**).

Referring to claim 20, Freeman discloses that the set of video, audio and information streams are provided from at least two different sources (**see Column 2, Lines 47-60**).

Referring to claim 21, Freeman discloses that the set of video, audio and information streams are provided via a broadband network (**see Column 5, Lines 45-67 and Figure 5**).

Referring to claims 22-30, see the rejection of claims 1-9, respectively.

Referring to claim 32, see the rejection of claim 11.

Referring to claim 34, see the rejection of claim 13.

Referring to claims 35-42, see the rejection of claims 14-21, respectively.

Referring to claims 43-44, see the rejection of claim 1 and 14, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Freeman et al. (U.S. Patent No. 5,861,881).

Referring to claim 12, Freeman discloses all of the limitations in claim 1, as well

as the data processing system being a computer (**see the rejection of claim 11**), but

fails to teach the use of a personal digital assistant.

The examiner takes Official Notice that personal digital assistants are well known

to supplement computers for use in displaying multiple video, audio and text streams.

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art, to modify the computer, as taught by Freeman and Bobilin, using

the personal digital assistant, for the purpose of providing the user with a compact

device for receiving and viewing the different types of video, audio and data streams.

Referring to claim 33, see the rejection of claim 12.

(10) Response to Argument

A.   GROUND OF REJECTION (1-9, 11-13, 22-30, 33-34 and 43)

Claims 1-9, 11-13, 22-30, 32-34 and 43 stand rejected under 35 U.S.C. § 112,

first paragraph, as failing to comply with the written description requirement.

A.1.   Rejection of claim 1

No arguments have been expressed by Appellants in this section.

A.2.   Pertinent Previous Events in Prosecution of Application

No arguments have been expressed by Appellants in this section.

A.3.   Appellants' Specification Supports Recitation of Claim 1

In regards to claim 1, the claim recites a <u>three step process</u>, where video/audio

streams are received (**the first step**), a subset of video/audio streams are selected (**the

second step**) and responsive to user input, selecting a plurality of video streams from

the video stream subset for the event, and one or more audio streams from the audio

stream subset for the event, wherein the selecting step omits ones of the video stream

subset while retaining the selected plurality of video streams, and omits ones of the

audio stream subset while retaining other ones of the audio stream subset (**the third step**).

As clearly taught by Applicant's specification on Pages 21-22 and Figure 8, a user selects programming to be retrieved from a distributed database at step 800 (**therefore causing a set of video streams to be received which has been identified by the examiner as the first step**). Applicant's specification further teaches at steps 806,808, 814 and 816 of Figure 8 that a subset of the video/audio streams are selected and the selections are stored in a user profile (**therefore teaching selecting subsets of video/audio streams which has been identified by the examiner as the second step**). However, after this second step has been taught by the specification, the third step is simply the synchronization and display of the video/audio streams on Page 23 and steps 818 and 820 of the specification. No additional step is taught for further selecting video/audio streams from the selected <u>subset</u>, therefore while the specification may sporadically teach various teachings of omission of video and audio streams and selection of a subset of audio and video streams, the specification, <u>as a whole</u>, fails to teach the claimed subject matter of first selects subsets of video and audio streams and then further omitting video and audio streams from the selected subsets as claimed.

Applicant states that on Page 16, Lines 21-29, that the specification teaches that many add-on data stream representing audio or video overlay streams, can be selected and used to present a program and that at Page 17, Lines 12-22 the specification

discloses that several video overlay streams that could each be selected, in order to

form a subset of video streams.

The examiner notes that at Page 16, Lines 21-29 the specification only teaches

displaying a primary video stream and further selecting subsets of the video and audio

streams. Again, this portion of the specification fails to further teach additional omission

from the selected subsets. Further on Page 17, Lines 12-22, the specification simply

teaches displaying a video stream and further displaying additional data streams. The

examiner notes that data streams are not claimed in claim 1 (**only video and audio**

streams) and all corresponding rejected claims rejected under 112 1st Paragraph. The

examiner also notes that audio streams are not taught in the portion of the specification.

Applicant states that on Page 17, 2nd Paragraph that this additional step is taught

on Page 18, Lines 10-23, where the specification teaches that it is possible to make the

overlays (**also stated at the bottom of Page 17 to be only <u>video overlay streams</u>**)

selectable and as an example, selecting a player's "name overlay" might for example

bring up an overlay with that player's biography.

The examiner disagrees that this passages teaches the third step for two

reasons. The first reason results from the claims specifically teaching that one or more

audio streams are additionally selected from the subset of selected audio streams,

however this additional teaching on Page 18 only teaches a video overlay stream being

additionally selected. The examiner notes that the passage on Page 18 fails to teach

that one or more audio streams are further selected from the selected subset of audio

streams (**only a single additional video overlay stream**). The second reason results

from the claim reciting that responsive to user input, selecting <u>a plurality of video</u>

<u>streams</u> for concurrent display. The examiner notes that Page 18 of Applicant's

specification only teaches that a single additional video overlay stream is being selected

from the subset of selected video overlay streams (**the football game video stream**

and the "name overlay" video stream, where the user selects the name overlay

video stream and a single additional biography video overlay stream is

displayed).

Applicant further notes that Page 16, Line 33 through Page 17, Line 3 teaches

that several video overlays can be streamed and selected, and can also be mixed to

overlay the final video.

The examiner disagrees and notes that this cited portion of the specification only

teaches selecting a subset of video streams and displaying the selected subset of video

streams in an overplayed manner. Again, only two steps (**selecting the subset and**

displaying the selected subset) are taught and no teaching of further selecting video

and audio streams from the already selected subsets of video and audio streams.

Applicant further notes Page 22, Lines 20-33 further teaches concurrently

displaying two video streams and therefore teaching the claimed subject matter.

The examiner disagrees and notes that this cited portion only teaches selecting

and displaying a subset of video streams and fails to teach selecting **<u>video and audio</u>**

<u>streams from the already selected subsets of video and audio streams</u>.

Applicant further notes Page 15 Line 24 through Page 16, Line 5 and Page 16, lines 21-29 for teaching the claimed subject matter.

The examiner disagrees and notes that these cited portions only teach selecting a subset of audio streams to present to a user and fails to teach further selecting audio streams **from the subset of already selected audio streams**. No further teaching an additional selection capability is taught. Page 15, Lines 24-27 states "By way of example", while Page 15, Line 27 through Page 16, Line 5 further teaches the example. Therefore, no further teaching of an additional selection of audio streams from the subset of selected audio streams.

B.   GROUND OF REJECTION (Claims 1-9, 11, 13-30, 32 and 34-44)

Claims 1-9, 11, 13-30, 32 and 34-44 stand rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 5,861,881 (Freeman).

B.1.   Teaching of _Freeman_ Reference

No arguments have been expressed by Appellants in this section.

B.2.   Claim 1 Patentably Distinguishes Over Cited _Freeman_ Reference

Applicant argues that Freeman teaches away from presenting each of the

plurality of video streams, selected from the video stream subset, concurrently with one another.

The Examiner disagrees and notes that Freeman teaches displaying video graphics (**additional video streams**) concurrently with the selected video stream (**see Column 13, Lines 46-61 and Column 15, Line 64 through Column 17, Line 2**). Although this is a not an additional television program displaying side-by-side with another television program (**as taught by Applicant's specification**), the claims are broad and do not distinguish that a video stream can be a moving/television/streaming video stream or a video graphic, therefore the Examiner has applied a broadest reasonable interpretation regarding the claim limitation "video streams".

Applicant also argues that Freeman fails to teach the two-part selection of selecting subsets of video and audio streams and then further omitting video and audio streams from the selected subsets of video and audio streams.

The Examiner disagrees and notes that Freeman discloses selected a subset of video and audio streams by selecting a specific input source which carries multiple video streams (**the television program and video graphics**) and audio streams (**see Column 5, Lines 38-45 for selecting the specific input source and Column 5, Lines 56-62, Column 12, Lines 31-49 and Column 13, Lines 46-61 for selecting a plurality of video overlay streams that includes the television program and pop-up video overlay graphics, where the video overlay graphics are also received along with the video signal in the video signals vertical blanking interval (*see Column 13,***

Lines 49-54) **and Column 14, Line 8 through Column 15, Line 54 and Column 17,**

Lines 3-15 for further selecting audio signals from the selected input (*subset*)

source (*where the selected input source contains various audio tracks and SAP

***channels*)).** Freeman further discloses selecting video streams (**the television**

program and video graphics) from the already selected subset of video and audio

streams (**the selected input source stated above**). Therefore, Freeman clearly

discloses the two-part selection of selecting subsets of video and audio streams and

then further omitting video and audio streams from the selected subsets of video and

audio streams.

B.3.   **Claims 2-9, 11, 13-30, 32 and 34-44 Patentably Distinguish over Cited**

***Freeman* Reference**

Referring to claims 2-9, 11, 13-30, 32 and 34-44, see the Examiner's rebuttal

above.

C.   **GROUND OF REJECTION (Claims 12 and 33)**

Claims 12 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable

over U.S. Patent No. 5,861,881 (Freeman) in view of Official Notice taken by the

Examiner in regard to a personal digital assistant.

Applicant has traversed the Examiner's Official Notice regarding the use of a

personal digital assistant to display the video/audio signals selected by the system of

Freeman.

The Examiner has cited the Allport reference, which teaches the use of receiving

and displaying audio/video/data signals on a personal digital assistant (**see Figures 1-2**

and Column 5, Line 66 through Column 8, Line 4).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art, to modify the display device, as taught by Freeman, to utilize the

handheld personal digital assistant, as taught by Allport, for the purpose of providing an

improved system and method for providing an enhanced overall viewing experience of

multiple data streams (**see Column 5, Lines 23-26 of Allport**).

D.   GROUND OF REJECTION (Claims 1-9, 11-21 and 43-44)

Claims 1-9, 11-21 and 43-44 stand rejected under 35 U.S.C. § 101, as being

directed to non-statutory subject matter.

D.1.   <u>Claims 1-9 and 11-21 Recite Statutory Subject Matter</u>

Applicant argues that the recited steps are considered to be well accepted by

patent practitioners as a common and legitimate step for a statutory procedure or

method claim.

As stated in the rejection above, the method claims can either correspond to the

computer program product claims or the system claims. Therefore, since the claimed

process/method is unclear for either corresponding to statutory system claims or non-

statutory computer program product claims, the process/method claims have been

deemed non-statutory (**see rebuttal below**).

D.2.   <u>**Claims 43 and 44 Recite Statutory Subject Matter**</u>

        Regarding claims 43 and 44, the examiner notes that a computer program with

no corresponding structure to execute the program has been deemed non-statutory

subject matter (**see MPEP 2106**). The Examiner further notes that Page 26 of

Applicant's specification also defines the computer-readable medium as a signal

bearing medium and that signal claims have been deemed non-statutory subject matter

(**see MPEP 2106**).

(11) Related Proceeding(s) Appendix

        No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

        For the above reasons, it is believed that the rejections should be sustained.

        Respectfully submitted,

Jason Salce

/Jason P Salce/

Primary Examiner, Art Unit 2623

November 23, 2008

Conferees:

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